

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

NOV 6 1998

PATRICK FISHER
Clerk

EDWARD H. LEWIS,

Plaintiff-Appellant,

v.

KENNETH S. APFEL, Commissioner,
Social Security Administration,

Defendant-Appellee.

No. 97-5224
(D.C. No. 96-CV-523-B)
(N.D. Okla.)

ORDER AND JUDGMENT *

Before **PORFILIO, BARRETT,** and **KELLY** , Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f) and 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Claimant Edward H. Lewis appeals the district court's order¹ affirming the Commissioner's decision to deny his application for supplemental security income benefits. The Commissioner determined that Mr. Lewis could perform a limited range of light work available in significant numbers in the national economy and, therefore, he is not disabled within the meaning of the Social Security Act. Mr. Lewis contends (1) the Commissioner's decision is not supported by substantial evidence, (2) the Commissioner failed to evaluate properly his allegations of disabling pain, and (3) the Commissioner erred in holding that he can perform light work. We affirm.

We review the Commissioner's decision to determine whether it is supported by substantial evidence and whether correct legal standards were applied. See Hawkins v. Chater, 113 F.3d 1162, 1164 (10th Cir. 1997). Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Soliz v. Chater, 82 F.3d 373, 375 (10th Cir. 1996) (quoting Richardson v. Perales, 402 U.S. 389, 401 (1971) (further quotation omitted)). We may neither reweigh the evidence nor substitute our judgment for that of the Commissioner. See Casias v. Secretary of Health & Human Servs., 933 F.2d 799, 800 (10th Cir. 1991).

¹ The parties proceeded before a magistrate judge. See 28 U.S.C. § 636.

We have carefully reviewed the record on appeal, as well as the briefs submitted by the parties. Applying the standards set out above, we affirm the denial of benefits for substantially the reasons stated in the magistrate judge's September 22, 1997 recommendation, as adopted by the district court.

The judgment of the United States District Court for the Northern District of Oklahoma is AFFIRMED.

Entered for the Court

John C. Porfilio
Circuit Judge